

the 30-day period, the request shall be considered to be adequate from the time the original request was made for purposes of determining the applicable period of limitation upon suit under 26 U.S.C. 6532(c).

(26 U.S.C. 6343)

§ 70.168 Redemption of property.

(a) *Before sale.* Any person whose property has been levied upon shall have the right to pay the amount due, together with costs and expenses of the proceeding, if any, to the regional director (compliance) at any time prior to the sale of the property. Upon such payment the regional director (compliance) shall restore such property to the owner and all further proceedings in connection with the levy on such property shall cease from the time of such payment.

(b) *Redemption of real estate after sale—(1) Period.* The owner of any real estate sold as provided in 26 U.S.C. 6335, the owner's heirs, executors, or administrators, or any person having any interest therein, or a lien thereon, or any person in their behalf, shall be permitted to redeem the property sold, or any particular tract of such property, at any time within 180 days after the sale thereof.

(2) *Price.* Such property or tract of property may be redeemed upon payment to the purchaser, or in case the purchaser cannot be found in the county in which the property to be redeemed is situated, then to the regional director (compliance) for the ATF region in which the property is situated, for the use of the purchaser, the purchaser's heirs, or assigns, the amount paid by such purchaser and interest thereon at the rate of 20 percent per annum. In case real and personal property (or several tracts of real property) are purchased in the aggregate, the redemption price of the real property (or of each of the several tracts) shall be determined on the basis of the ratio, as of the time of sale, of the value of the real property (or tract) to the value of the total property purchased. For this purpose the minimum price or the highest bid price, whichever is higher, offered for the property separately or in groups shall be treated as the value.

(c) *Record.* When any real property is redeemed, the regional director (compliance) shall cause entry of the fact to be made upon the record of sale kept in accordance with 26 U.S.C. 6340 and § 70.187 of this part, and such entry shall be evidence of such redemption. The party who redeems the property shall notify the regional director (compliance) of the ATF region in which the property is situated of the date of such redemption and of the transfer of the certificate of sale, the amount of the redemption price, and the name of the party to whom such redemption price was paid.

(26 U.S.C. 6337)

§ 70.169 Expense of levy and sale.

The regional director (compliance) shall determine the expenses to be allowed in all cases of levy and sale. Such expenses shall include the expenses of protection and preservation of the property during the period subsequent to the levy, as well as the actual expenses incurred in connection with the sale thereof. In case real and personal property (or several tracts of real property) are sold in the aggregate, the regional director (compliance) shall properly apportion the expenses to the real property (or to each tract).

(26 U.S.C. 6341)

§ 70.170 Application of proceeds of levy.

(a) *Collection of liability.* Any money realized by proceedings under 26 U.S.C. 6331 through 6344, or by sale of property redeemed by the United States (if the interest of the United States in the property was a lien arising under the provisions of 26 U.S.C. enforced and administered by the Bureau), is applied in the manner specified in paragraphs (a)(1), (2), and (3) of this section. Money realized by proceedings under 26 U.S.C. 6331 through 6344, includes money realized by seizure, by sale of seized property, or by surrender under 26 U.S.C. 6332 except money realized by the imposition of a 50 percent penalty pursuant to 26 U.S.C. 6332(d)(2)).

(1) *Expense of levy and sale.* First, against the expenses of the proceedings or sale, including expenses allowable

under 26 U.S.C. 6341 and amounts paid by the United States to redeem property.

(2) *Specific tax liability on seized property.* If the property seized and sold is subject to a tax imposed by any provision of 26 U.S.C. which has not been paid, the amount remaining after applying paragraph (a)(1) of this section, shall then be applied against such tax liability (and, if such tax was not previously assessed, it shall then be assessed):

(3) *Liability of delinquent taxpayer.* The amount, if any, remaining after applying paragraphs (a)(1) and (2) of this section, shall then be applied against the liability in respect of which the levy was made or the sale of redeemed property was conducted.

(b) *Surplus proceeds.* Any surplus proceeds remaining after the application of paragraph (a) of this section shall, upon application and satisfactory proof in support thereof, be credited or refunded by the Chief, Tax Processing Center to the person or persons legally entitled thereto. The delinquent taxpayer is the person entitled to the surplus proceeds unless another person establishes a superior claim thereto.

(26 U.S.C. 6342)

DISPOSITION OF PROPERTY

SOURCE: Sections 70.181 through 70.188 added by T.D. ATF-301, 55 FR 47627, Nov. 14, 1990, unless otherwise noted.

§ 70.181 Disposition of seized property.

(a) *Notice of seizure.* As soon as practicable after seizure of property, the ATF officer seizing the property shall give notice in writing to the owner of the property (or, in the case of personal property, to the possessor thereof). The written notice shall be delivered to the owner (or to the possessor, in the case of personal property) or left at the owner's usual place of abode or business, if located within the ATF region where the seizure is made. If the owner cannot be readily located, or has no dwelling or place of business within such region, the notice may be mailed to the owner's last known address. Such notice shall specify the sum demanded and shall contain, in the case of personal property, a list sufficient to identify the property seized and, in the

case of real property, a description with reasonable certainty of the property seized.

(b) *Notice of sale.* (1) As soon as practicable after seizure of the property, the regional director (compliance) shall give notice of sale in writing to the owner. Such notice shall be delivered to the owner or left at the owner's usual place of abode or business if located within the ATF region where the seizure is made. If the owner cannot be readily located, or has no dwelling or place of business within such region, the notice may be mailed to the owner's last known address. The notice shall specify the property to be sold, and the time, place, manner, and conditions of the sale thereof, and shall expressly state that only the right, title, and interest of the delinquent taxpayer in and to such property is to be offered for sale. The notice shall also be published in some newspaper published in the county wherein the seizure is made or in a newspaper generally circulated in that county. For example, if a newspaper of general circulation in a county but not published in that county will reach more potential bidders for the property to be sold than a newspaper published within the county, or if there is a newspaper of general circulation within the county but no newspaper published within the county, the regional director (compliance) may cause public notice of the sale to be given in the newspaper of general circulation within the county. If there is no newspaper published or generally circulated in the county, the notice shall be posted at the post office nearest the place where the seizure is made, and in not less than two other public places.

(2) The regional director (compliance) may use other methods of giving notice of sale and of advertising seized property in addition to those referred to in paragraph (b)(1) of this section, when the regional director (compliance) believes that the nature of the property to be sold is such that a wider or more specialized advertising coverage will enhance the possibility of obtaining a higher price for the property.

(3) Whenever levy is made without regard to the 10-day period provided in 26